

Introduced by Senator Wright

February 19, 2010

An act to amend Section 11349 of the Government Code, relating to regulations.

LEGISLATIVE COUNSEL'S DIGEST

SB 1351, as introduced, Wright. Office of Administrative Law: regulation review.

Existing law, the Administrative Procedure Act, governs the procedure for the adoption, amendment, or repeal of regulations by state agencies. Existing law requires the Office of Administrative Law to review specified regulations and make determinations using prescribed standards, including clarity, as defined.

This bill would revise the definition of "clarity" to additionally mean that regulations include all implementation schedules and forms necessary for compliance with the regulation.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. It is the intent of the Legislature in enacting this
- 2 act to clarify existing law to conform with the existing regulatory
- 3 review practices.
- 4 SEC. 2. Section 11349 of the Government Code is amended
- 5 to read:
- 6 11349. The following definitions govern the interpretation of
- 7 this chapter:

1 (a) “Necessity” means the record of the rulemaking proceeding
2 demonstrates by substantial evidence the need for a regulation to
3 effectuate the purpose of the statute, court decision, or other
4 provision of law that the regulation implements, interprets, or
5 makes specific, taking into account the totality of the record. For
6 purposes of this standard, evidence includes, but is not limited to,
7 facts, studies, and expert opinion.

8 (b) “Authority” means the provision of law which permits or
9 obligates the agency to adopt, amend, or repeal a regulation.

10 (c) “Clarity” means written or displayed so that the meaning of
11 regulations will be easily understood by those persons directly
12 affected by them *and that the regulations include all*
13 *implementation schedules and forms necessary for compliance.*

14 (d) “Consistency” means being in harmony with, and not in
15 conflict with or contradictory to, existing statutes, court decisions,
16 or other provisions of law.

17 (e) “Reference” means the statute, court decision, or other
18 provision of law which the agency implements, interprets, or makes
19 specific by adopting, amending, or repealing a regulation.

20 (f) “Nonduplication” means that a regulation does not serve the
21 same purpose as a state or federal statute or another regulation.
22 This standard requires that an agency proposing to amend or adopt
23 a regulation must identify any state or federal statute or regulation
24 which is overlapped or duplicated by the proposed regulation and
25 justify any overlap or duplication. This standard is not intended
26 to prohibit state agencies from printing relevant portions of
27 enabling legislation in regulations when the duplication is necessary
28 to satisfy the clarity standard in paragraph (3) of subdivision (a)
29 of Section 11349.1. This standard is intended to prevent the
30 indiscriminate incorporation of statutory language in a regulation.